

| | | |
|---|---|----------------------------|
| ROBERT BRICE CARSON III | § | |
| v. | § | CIVIL ACTION NO. 6:08cv442 |
| TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION | § | |

1

Pugh, 438 U.S. 781 (1978) (*per curiam*). The Magistrate Judge therefore recommended that Carson's lawsuit be dismissed with prejudice as frivolous, although specifying that this dismissal should be without prejudice to Carson's right to challenge the legality of his continued confinement through habeas corpus or any other lawful means, and without prejudice to Carson's right to pursue his claims against the proper Defendant or Defendants in the event that his allegedly unlawful imprisonment is set aside or declared unlawful.

Carson received a copy of the Report on December 5, 2008, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, including the Plaintiff's complaint and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is hereby DISMISSED with prejudice as frivolous. The dismissal of this lawsuit shall have no effect upon Carson's right to challenge the legality of his confinement through any lawful means, including but not limited to seeking habeas corpus relief in state or federal court, nor shall the dismissal of this lawsuit have any effect upon Carson's right to seek damages against defendants amenable to suit in the event that any portion of his incarceration is determined to be unlawful by a court of competent jurisdiction or is otherwise set aside. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby
DENIED.

So ORDERED and SIGNED this 20th day of January, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE